

***Draft 12/1/2010 – SUBJECT TO CHANGE
FOR REVIEW AND ADOPTION BY DSC AT 12/16-17/2010 MEETING***

**DELTA STEWARDSHIP COUNCIL
November 18-19, 2010
MEETING SUMMARY**

DAY 1: Thursday, November 18, 2010, (10:00 a.m. – 4:30 p.m.)

1. Welcome and Introductions

The meeting was called to order at 10:05 a.m., November 18, 2010, by Chair Phillip Isenberg.

2. Roll Call – Establish a Quorum (Water Code §85210.5)

Roll call was taken and a quorum was established. The following members were present for the meeting: Phillip Isenberg, Randy Fiorini, Gloria Gray, Patrick Johnston, Felicia Marcus, and Don Nottoli (arrived at 10:11 a.m.). Absent: Hank Nordhoff.

3. Chair's Report

Chair Isenberg spoke briefly on the new administration, the transition, and process of appointments. He stated the new administration is focused on budget and fiscal matters at this time.

Chair Isenberg announced he has applied for an Executive Fellow(s) to be assigned to the Council. Isenberg interviewed nine individuals and expects to have an Executive Fellow starting sometime in December.

4. Executive Officer's Report

Joe Grindstaff provided an update on efforts, now that the 2010-2011 Budget has been passed, to transfer the CH2M Hill contract for the Delta Plan and associated Prop 84 funding from DWR to the Council. Once the funding is in place, there are several task orders that the Council will need to issue to CH2M Hill for further development of the Delta Plan. Grindstaff has authority to approve the task orders; however some will be over \$500,000. Task orders surpassing that threshold normally require approval by the Council before they can be implemented. These will be approved by Grindstaff, pending the Council's approval in December. Grindstaff also stated if any of the task orders are critical, he will sign them pending the Council's approval in December.

Following discussion and clarification of the contract and task orders, Chair Isenberg called for public comment. Since there was none, the Council authorized Grindstaff to proceed with the task orders once the transfers are completed. CH2M Hill will then continue to work on the Delta Plan and Grindstaff return to the Council at the December seeking ratification of task orders over \$500,000 and also a resolution to approve contract amendments to increase the funding for the Delta Plan contract.

The Council then discussed the schedule for the Delta Plan including the seven scoping meetings staff is planning. Grindstaff went through a timeline of the Delta Plan development which led to a discussion on tentative Council meeting dates for 2011. The proposed schedule included four additional meetings over the months of March, April, May and June. Chair Isenberg requested staff email the proposed 2011 schedule to Council members so they may check their calendars for availability.

a. Legislative and Legal Update

Chris Stevens introduced Rebecca Coleman, a legal extern from the McGeorge School of Law. Ms. Coleman provided the Council with the monthly Delta related litigation update. This was her last meeting as her externship had ended. Chair Isenberg and Stevens thanked Ms. Coleman for the assistance she had provided to Chief Counsel Stevens in particular and the Stewardship Council in general. Stevens said Ms. Coleman had continued to track litigation of interest to the Council. Regarding the Wanger cases, she said there were not any notable updates. Mr. Stevens said everyone had been expecting a decision on the consolidated Delta smelt cases and that there has been speculation as to why a decision has not been rendered.

Stevens said Ms. Coleman had brought an interesting website/blog to his attention <http://www.somachlaw.com/bay-delta/>. He said the blog tied a few current event items together, including the passage of Prop 26, oral argument in an important water right fee case, and kick off of the Delta Plan, along with its need for a financing plan.

Stevens discussed a case in which the California Supreme Court has now scheduled oral arguments. It deals with the State Board's Water Right fees brought in 2003 by Northern California Water Association and the California Farm Bureau Federation. The case challenges the water right fees directly, challenges the validity of their passage (whether they should have required a 2/3 vote) as well as other related causes of actions detailing how the fees were calculated and applied. The case is scheduled to be heard on 12/7/10 at 9:00 a.m., in Los Angeles.

Curt Miller provided a brief summary on the passage of Prop 26, which he said has implications for the Delta Plan, financing, and environmental fees, in general. Miller stated that from now on, state and local agencies will require a 2/3 vote to initiate any fee or tax. The proposition also retroactively negates any fees established during the calendar year 2010 and gives agencies a year to change over to a 2/3 requirement in reestablishing those fees. In other words, he said, any fees on the books now will exist until November 2011 at which time they will be repealed unless extended by a 2/3 vote. Miller also discussed the trailer bills and other bills that are impacted by the passage of Prop 26.

Miller then stated the transition is in full swing with the new Governor focused on the budget. And since the attention of the legislature is consumed with the budget, he said a special session may be called to address the budget deficit.

b. Status of MOU's with Department of Fish and Game and Bay Conservation and Development Commission

Joe Grindstaff discussed the efforts to memorialize with other agencies the procedures for staff-level coordination in preparing the Delta Plan and implementing the Delta Reform Act. This would be consistent with the statutory mandate for interagency

coordination Water Code Section 85204. He explained that the Council was in the process of completing MOUs with the Department of Fish and Game and the Bay Conservation and Development Commission, and intended to begin discussions with the Department of Water Resources and other agencies.

After Council discussion, the Council directed its Executive Officer (Grindstaff) to continue negotiating, and to execute when appropriate, MOUs with other agencies, including DFG, DWR, and BCDC, so as to facilitate staff-level, interagency coordination in preparing the Delta Plan and implementing the Delta Reform Act with the understanding that any significant, substantive policy issues that arise will be brought to the attention of the Council.

It was moved (Marcus) and seconded (Gray). A vote was taken (6/0) and the motion was passed.

Chair Isenberg called for public comment on the Executive Officer's report – there was none.

5. Adoption of the October 28-29, 2010 Meeting Summary (Action Item)

Chair Isenberg asked the Council if there were any questions or comments from the Council or members of the public on the October 28-29, 2010 meeting summary. As there were none, it was moved (Johnston) and seconded (Nottoli) to approve the meeting summary. A vote was taken (5/0) and 1 abstention (Marcus) and the motion was passed.

6. Lead Scientist's Report

Sam Harader presented the Lead Scientist's Report. The report contained information on the first annual scientific review of the implementation of the Delta smelt and salmon Biological Opinions Reasonable and Prudent Alternatives convened by the Science Program for the prior year's state and federal Delta water system operations. Harader also stated the Delta Science Program was actively working on the monitoring, research and adaptive management components of the Delta Plan. He also announced that the National Research Council has formed a panel to review BDCP.

The Council requested the Science Program use their website to help people find information on such things as the Central Valley Project and State Water Project Operations Criteria and Plan, by offering links to the different websites that contain this information. NOAA Fisheries and FWS have similar sites that provide the latest information coming from the technical teams.

7. Recommendations from Early Action Committee (Action Item)

Item 7, Recommendations from the Early Action Committee, was presented by Chair Isenberg. The agenda item was a request to approve the Committee's (Isenberg and Fiorini) final recommendation(s). The Committee's recommendation options, submittal forms and the tables of early action items were included in the Council members meeting materials for their review and discussion. The discussion focused on Table 3,

which included the early action items considered at the November 5 Committee meeting and reported to the Council at this meeting.

Chair Isenberg noted Yolo County's request to be in attendance when its early actions were discussed. Because of scheduling conflicts they would not be available until after lunch. Chair Isenberg agreed to accommodate their request, and the early actions submitted by Yolo County were addressed after lunch.

After discussion of each proposed early action included in Table 3, staff requested the Council to approve the Early Actions Review Committee's final recommendations for Items 6, 7, and 8. It was moved (Gray) and seconded (Fiorini). A vote was taken and the motion was passed.

After lunch, the early actions submitted by Yolo County (Items 9, 10, 11, and 12) were discussed. Following discussion and clarification of the submittals, Chair Isenberg called for public comment.

Public comment on Agenda Item 7 was provided by:

Tom Zuckerman, Central Delta Water Agency, commented on fish screen testing and said he can provide information on a study that shows what types of fish were going in them.

Petrea Marchand, Yolo County, summarized each Yolo County's early actions submittals (Items 9, 10, 11, and 12) and provided clarification on each.

Following the public comment, staff requested the Council to approve the Early Actions Review Committee's final recommendations for Items 9, 10, and 12. Regarding Item 11, a draft letter to Yolo County from Joe Grindstaff, addressing the Westside Yolo Bypass Management Option, will be prepared for the Council's review at the December meeting. It was moved (Nottoli) and seconded (Marcus). A vote was taken (6/0) and the motion was passed.

8. Presentation by California Emergency Management Agency on the Development of an Emergency Preparedness and Response Strategy for the Delta Region

Eric Nichol introduced Jim Brown, Cal EMA, who updated the Council on his agency's development of an emergency preparedness and response strategy for the Delta region. Brown stated the strategy is being developed by Cal EMA's Sacramento-San Joaquin Delta Multi-Hazard Coordination Task Force, established by Section 12994.5 (SB 27). Section 85305(b) of the Delta Reform Act directs the Council to consider incorporating this strategy into the Delta Plan.

Cal EMA is responsible for the coordination of overall state agency response to disasters in support of local governments. The Agency is responsible for assuring the state's readiness to respond to, and recover from, all hazards and for assisting local governments in their emergency preparedness, response, recovery, and hazard mitigation efforts. A PowerPoint presentation was offered by Brown, Bill Croyle (DWR) Jerry Kopp, Michael Crews, and Sharon Avery (all Cal EMA) that provided information

on current plans (speculating what would happen in the event of a devastating earthquake), the disaster drill known as Golden Guardian, interoperable communications and the Sacramento-San Joaquin Delta Taskforce activities.

9. Delta Plan Development (Note: This item continued on Friday) (Action Item)

Consultant Gwen Buchholz began the discussion on the Delta Plan by giving the Council an update on the coordination activities. Preparation of the Delta Plan is being initiated with development of white papers and the Notice of Preparation (NOP) for the EIR. The draft Delta Plan and draft EIR will be prepared by June 2011. The final Delta Plan and final EIR will be completed by December 2011 to comply with existing legislation.

Buchholz discussed the NOP, which had been modified to expand the discussion of the preparation of the Delta Plan and the description of preliminary strategies under the Preliminary Proposed Project and Potential Alternatives subsection. She walked through the redline version of the NOP discussing other changes/corrections. She said the Comment matrix is being used to categorize comments for preparation of the Delta Plan and EIR. The November version of the matrix included comments received between 10/16/10 and 11/5/10.

After discussion by the Council, Chair Isenberg called for public comment and requested written comments from interested parties.

Public comment on Agenda Item 9 was provided by:

Greg Zlotnick, State Federal Contractors Water Agency, who commented on the final NOP. Stated he will submit written comments.

Ryan Bezerra, Bartkiewicz, Kronick, and Shanahan, who commented on the NOP Scope of Planning Areas and "Responsible Agencies".

Jonas Minton, Planning and Conservation League, who commented on the NOP and stated the water supply reliability section still remains cloudy.

Mark Rentz, Association of California Water Agencies, had technical suggestions: (1) provide greater detail as to Planning (acres or square miles; counties; number of water agencies); (2) Consider changing "will include" to "may include" beginning on p. 17; (3) "Economic" section, p. 26: Will the economic evaluation include Planning Area 1 and 2?; (4) "Energy "Resources" section, p. 26: Will you evaluate potential changes to energy demand/use associated with proposed alternatives?

Pete Kutras, Delta Counties Coalition, requested clarification of comment process, NOP, and white papers.

Following the public comment, a motion was made for the Council to adopt the third draft NOP as amended today, giving staff authorization to make non-substantive changes and understanding if any policy issues arise, the NOP will return to the Council. Member Gray requested the vote be held open until 11/19, to ensure everyone the opportunity to review the draft, and to make comments, suggestions and/or corrections. It was moved

(Fiorini) and seconded (Marcus). A vote was taken (6/0); however roll was kept open until the next morning.

10. Public Comment

Chair Isenberg asked if there were any other members of the public wishing to address the Council – there were none.

The meeting concluded for the day at 4:35 p.m.

DAY 2: Friday, November 19, 2010 (9:00 a.m. – 3:30 p.m.)

11. Call to Order

The meeting resumed at 9:00 a.m., with Chair Isenberg presiding.

12. Roll Call – Establish Quorum (Water Code §85210.5)

Roll call was taken and a quorum was established. All Council members were present for the meeting: Phillip Isenberg, Randy Fiorini, Gloria Gray, Patrick Johnston (arrived at 10:47 a.m.), Felicia Marcus, Hank Nordhoff and Don Nottoli.

The first item discussed was the NOP. The day before, when the Council moved to adopt the draft NOP, member Gray requested the Council hold the action (to adopt the 3rd draft NOP as amended on 11/18) “open” overnight to ensure everyone had an opportunity to review the draft, make comments, suggestions and/or corrections. Chair Isenberg summarized the pending action from the day before. He asked the Council if any issues had been noted – there were none. Chair Isenberg called for public comments, and as there were none, the Council ratified the vote (6/0), allowing Mr. Nordhoff to add on to the vote if he desired. The vote remained 6/0 because Mr. Johnston had not yet arrived for the Friday meeting. However, he had approved the motion during the Thursday meeting. Therefore, with Friday’s vote, all the members eventually approved the NOP. The actions directed staff to finalize the NOP as authorized by the Council’s action of 11/18/10.

Chair Isenberg followed the discussion of the NOP by giving an overview of the day noting the rearrangement of agenda items.

13. Update on Bay Delta Conservation Plan

Keith Coolidge began the update by briefing the Council on the BDCP steering committee meeting that was held the day before on November 18.

Coolidge turned the presentation over to the ARCADIS consultants, Larry Roth and Lucas Paz, who gave their fourth update to the Council. ARCADIS was tasked with reviewing the BDCP materials and identifying and monitoring major unresolved issues. Lucas Paz highlighted the new unresolved issues, stating that issues included on the previous matrix still remain unresolved. Roth commented on the three other major remaining issues: funding, governance, and ranges of operations.

The Council also discussed the second draft BDCP scoping comment letter to DWR. The purpose of the letter was to provide supplemental scoping comments to DWR regarding its 2/13/09 revised NOP of a Draft EIR/S for the BDCP. Previous comments were submitted to DWR by the Council on 6/28/10.

After much discussion by the Council and staff, the Council deferred the scoping letter to the December Council meeting. The Council also directed staff to refer to the letter as a "comment" letter (a serious narrative letter) and not as a "scoping" letter, and to post the draft comment letter on the Council website to allow for public comment.

Public comment on Agenda Item 13 was provided by:

Pete Kutras, Delta Counties Coalition, who commented on the BDCP Review Process and urged the Council not to do a de novo review of the BDCP.

Jonas Minton, Planning and Conservation League, who commented that he felt the lack of a definition of what Water Supply Reliability is a key sticking point for BDCP.

14. Continuation of Agenda Item 9 – Delta Plan

Gwen Buchholz continued Agenda Item 9, the Delta Plan. She began with the document Delta as a Place: Land Use White Paper, as presented by Jeff Goldman. Goldman summarized the intent of the white paper. He gave descriptions of Delta land use patterns and local plans, as well as policies that are used to guide those uses. He offered sufficient detail to inform policy development for the Delta Plan. Goldman also stated the white paper was intended to aid in the understanding of how urbanization and/or conservation policies in and around the Delta would address future issues facing the Delta and whether these policies are consistent or inconsistent with the legislative direction given by SBX7 1. Following Goldman's presentation of the white paper, the Council had several comments on items such as urbanization, the Williamson Act, and the history of land use in the Delta, including industries in the Delta and its economy. The Council members stated they would like to see more maps and diagrams that show the different uses of the islands, etc. The Council also felt it would be helpful to adopt an "official map of the Delta." The Council would also like a map that shows above and below the flood line, as well as a map that shows the mean flood line.

Eric Nichol then introduced Eric Nagy, who presented the Emergency Preparedness and Response White Paper. Nagy stated that the risk of levee failure remains a growing concern and studies have concluded that there is a compelling need to coordinate emergency preparedness and response planning for the Delta. He further stated that a coordinated strategy would allow for the member agencies to participate in a set of streamlined pre-planned procedures designed to reduce emergency response and recovery times. The plan, he said, should address four phases of emergency management – preparedness, response, recovery, and mitigation. At a minimum, the plan should contain the immediate actions necessary to avoid the loss of life and minimize the effects of the disaster on private property and public infrastructure. The plan, he said, should also prioritize the efforts required to restore necessary life-support systems to the affected area as well as determine how or if the damaged areas should be restored to their pre-disaster conditions. The Council discussed the charts and maps

included in the white paper. The members also expressed concern with eligibility for full Federal assistance for this type of "Response and Recovery" action. Chair Isenberg asked Mr. Nagy if there is a policy statement that he would recommend.

Mr. Nagy stated he felt that the important questions to ask are what the cost of bringing levees to an earthquake-proof standard, and is that action economically worth the price. The Council believes an island-by-island levee evaluation is needed (i.e. a prioritization of levees).

After the briefings and the Council's discussion, Chair Isenberg called for questions and public comment.

Public comment on Agenda Item 9 was provided by:

Connie Ford, Sacramento County Resident, who commented on concerns regarding the bias that the Delta is going to collapse and how that negativity affects the Delta residents. She also voiced other concerns from the local residents.

Jonas Minton, Planning and Conservation League, who commented on emergency response measures. He gave an example of Prospect Island mitigation. He also expressed concern as to where the resources would go if there were multiple catastrophic events such as a levee break on the American River and Delta flooding.

15. Public Comment

Chair Isenberg asked if there were any members of the public wishing to address the Council – there were none.

16. Preparation for Next Council Meeting – Discuss (a) expected agenda items; (b) new work assignments for staff; (c) requests of other agencies; (d) other requests from Council members; and (e) confirm next meeting date.

The next meeting is scheduled for December 16-17, 2010, in the same location, the West Sacramento City Hall Galleria.

The meeting adjourned at 11:55 a.m.